



**Virginia
Regulatory
Town Hall**

Notice of Intended Regulatory Action Agency Background Document

Agency Name:	Department of Professional and Occupational Regulation
VAC Chapter Number:	18 VAC 41-30-10 et seq.
Regulation Title:	Board for Barbers and Cosmetology Rules and Regulations
Action Title:	Promulgate regulations for newly combined Board for Barbers and Cosmetology
Date:	March 13, 2001

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

To promulgate regulations governing the licensure and practice of barbering and cosmetology as directed by Acts 2000, c. 726, cl. 3.

To promulgate regulations sub-regulating the licensure and practice of waxing and haircutting in the Commonwealth of Virginia to fulfill the Board's responsibility to protect the health, safety and welfare of the citizens of the Commonwealth.

To promulgate regulations necessary to provide for and ensure that health and sanitary standards and safety are adequate in shops, salons, schools, and other facilities where barbering and cosmetology are practiced.

To provide for a fee increase.

To review several provisions and simplify them thereby ensuring that the Board is meeting its statutory mandate to ensure minimal competence of all licensees without burdensome requirements.

The purpose of the fee increase is as follows:

The intent of the proposed changes in regulations is to increase licensing fees for regulants of the Board for Barbers and Cosmetology. The Board must establish fees adequate to support the costs of board operations and a proportionate share of the Department's operations. By the beginning of the 2002-04 biennium, fees will no longer provide adequate revenue for those costs.

The Department of Professional and Occupational Regulation (DPOR) receives no general fund money, but instead is funded almost entirely from revenue collected for license applications, renewals, examination fees, and other licensing fees. The Department is self-supporting, and must collect adequate revenue to support its mandated and approved activities and operations. Fees must be established at amounts that will provide that revenue. Fee revenue collected on behalf of the boards funds the Department's authorized special revenue appropriation.

The Board for Barbers and Cosmetology has no other source of revenue from which to fund its operations.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

Section 54.1-201 of the Code of Virginia states that the Board "shall promulgate regulations necessary to carry out the purposes of this chapter."

§ 54.1-201. Powers and duties of regulatory boards.

The powers and duties of regulatory boards shall be as follows:

1. To establish the qualifications of applicants for certification or licensure by any such board, provided that all qualifications shall be necessary to ensure either competence or integrity to engage in such profession or occupation.
2. To examine, or cause to be examined, the qualifications of each applicant for certification or licensure within its particular regulatory system, including when necessary the preparation, administration and grading of examinations.

3. To certify or license qualified applicants as practitioners of the particular profession or occupation regulated by such board.
4. To levy and collect fees for certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the regulatory board and a proportionate share of the expenses of the Department of Professional and Occupational Regulation and the Board for Professional and Occupational Regulation.
5. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board. The regulations shall not be in conflict with the purposes and intent of this chapter or of Chapters 1 (§ 54.1-100 et seq.) and 3 (§ 54.1-300 et seq.) of this title.
6. To ensure that inspections are conducted relating to the practice of each practitioner certified or licensed by the regulatory board to ensure that the practitioner is conducting his practice in a competent manner and within the lawful regulations promulgated by the board.
7. To revoke, suspend or fail to renew a certificate or license for just causes as enumerated in regulations of the board.
8. To receive complaints concerning the conduct of any person whose activities are regulated by the regulatory board and to take appropriate disciplinary action if warranted.
9. To promulgate canons of ethics under which the professional activities of persons regulated shall be conducted.

(Section 54.1-201 of the Code of Virginia is available at the following website address:
[http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-201.](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-201))

To promulgate regulations governing the licensure and practice of barbering and cosmetology as directed by Acts 2000, c. 726, cl. 3.

Code of Virginia, Title 54.1,
Chapter 7.

Barbers and Cosmetology

Sec.

54.1-700. Definitions.

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54.1-703. License required.

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54.1-705. Inspections.

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§ 54.1-700. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Barber" means any person who shaves, shapes or trims the beard; cuts, singes, shampoos or dyes the hair or applies lotions thereto; applies, treats or massages the face, neck or scalp with oils, creams, lotions, cosmetics, antiseptics, powders, clays or other preparations in connection with shaving, cutting or trimming the hair or beard, and practices barbering for compensation and when such services are not performed for the treatment of disease.

"Barbering" means any one or any combination of the following acts, when done on the human body for compensation and not for the treatment of disease, shaving, shaping and trimming the beard; cutting, singeing, shampooing or dyeing the hair or applying lotions thereto; applications, treatment or massages of the face, neck or scalp with oils, creams, lotions, cosmetics, antiseptics, powders, clays, or other preparations in connection with shaving, cutting or trimming the hair or a beard. The term "barbering" shall not apply to the acts described hereinabove when performed by any person in his home if such service is not offered to the public.

"Barber instructor" means any person who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of barbering.

"Barbershop" means any establishment or place of business within which the practice of barbering is engaged in or carried on by one or more barbers.

"Board" means the Board for Barbers and Cosmetology.

"Cosmetologist" means any person who administers cosmetic treatments; manicures or pedicures the nails of any person; arranges, dresses, curls, waves, cleanses, cuts, shapes, singes, waxes, tweezes, shaves, bleaches, colors, relaxes, straightens, or performs similar work, upon human hair, or a wig or hairpiece, by any means, including hands or mechanical or electrical apparatus or appliances unless such acts as adjusting, combing, or brushing prestyled wigs or hairpieces do not alter the prestyled nature of the wig or hairpiece, and practices cosmetology for compensation.

"Cosmetology" includes, but is not limited to, the following practices: administering cosmetic treatments; manicuring or pedicuring the nails of any person; arranging, dressing, curling, waving, cleansing, cutting, shaping, singeing, waxing, tweezing, shaving, bleaching, coloring, relaxing, straightening, or similar work, upon human hair, or a wig or hairpiece, by any means, including hands or mechanical or electrical apparatus or appliances, but shall not include such acts as adjusting, combing, or brushing prestyled wigs or hairpieces when such acts do not alter the prestyled nature of the wig or hairpiece.

"Cosmetology instructor" means a person who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of cosmetology.

"Cosmetology salon" means any commercial establishment, residence, vehicle or other establishment, place or event wherein cosmetology is offered or practiced on a regular basis for compensation and may include the training of apprentices under regulations of the Board.

"Nail care" means manicuring or pedicuring natural nails or performing artificial nail services.

"Nail salon" means any commercial establishment, residence, vehicle or other establishment, place or event wherein nail care is offered or practiced on a regular basis for compensation and may include the training of apprentices under regulations of the Board.

"Nail school" means a place or establishment licensed by the board to accept and train students in nail care.

"Nail technician" means any person who for compensation manicures or pedicures natural nails, or who performs artificial nail services for compensation, or any combination thereof.

"Nail technician instructor" means a licensed nail technician who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of nail care.

"School of cosmetology" means a place or establishment licensed by the Board to accept and train students and which offers a cosmetology curriculum approved by the Board.

§ 54.1-701. Exemptions.

The provisions of this chapter shall not apply to:

1. Persons authorized by the laws of this Commonwealth to practice medicine and surgery or osteopathy or chiropractic;
2. Registered nurses licensed to practice in this Commonwealth;
3. Persons employed in state or local penal or correctional institutions, rehabilitation centers, sanatoria, or institutions for care and treatment of the mentally ill or mentally deficient or for care and treatment of geriatric patients, as barbers, cosmetologists, nail technicians, barber instructors, cosmetology instructors, or nail technician instructors who practice only on inmates of or patients in such sanatoria or institutions;
4. Persons licensed as funeral directors or embalmers in this Commonwealth.
5. Gratuitous services as a barber, nail technician or cosmetologist;

6. Students enrolled in an approved school taking a course in barbering, nail care or cosmetology;
7. Persons working in a cosmetology salon whose duties are expressly confined to the shampooing and cleansing of human hair under the direct supervision of a cosmetologist or barber;
8. Apprentices serving in a barbershop, nail salon or cosmetology salon licensed by the Board in accordance with the Board's regulations; and
9. Schools of barbering, nail care or cosmetology in public schools.

§ 54.1-702. Board for Barbers and cosmetology; membership; officers; quorum.

A. Except as provided in subsections B and C, the Board for Barbers and Cosmetology shall be composed of seven members, of whom two members shall be licensed barbers, one of whom may be an owner or operator of a barber school; two members shall be licensed cosmetologists, one of whom may be an owner or operator of a cosmetology school; and one member shall be a licensed nail technician or a licensed cosmetologist engaged primarily in the practice of nail care, each of whom shall have been licensed in their respective professions for at least three years immediately prior to appointment, and two citizen members . The terms of Board members shall be four years. No member shall serve for more than two full successive terms. The Board shall elect a chairman and a vice-chairman. A majority of the Board shall constitute a quorum.

B. Appointments to the Board of Cosmetology which expire on March 14, of 2000, 2001 and 2002, shall be extended to June 30 of the same year of expiration.

C. All members of the Board for Barbers and the Board for Cosmetology with unexpired terms, as of July 1, 2000, shall continue as members of their respective boards and shall complete their terms of appointment. Two positions on the Board for Cosmetology shall expire on June 30, 2001, and three positions shall expire on June 30, 2002. Two positions on the Board for Barbers shall expire on June 30, 2001, and one position shall expire on June 30, 2002.

D. The Governor shall appoint to the Board for Barbers and Cosmetology one licensed nail technician and two citizen members effective July 1, 2000; one licensed barber, who may be an owner or operator of a barber school, effective July 1, 2001; one licensed barber effective July 1, 2002; and two licensed cosmetologists, one of whom may be an owner or operator of a cosmetology school, effective July 1, 2002.

§ 54.1-703. License required.

No person shall offer to engage in or engage in barbering, cosmetology or nail care without a valid license issued by the Board, except as provided in § 54.1-701.

§ 54.1-704. Temporary licenses.

The Board may issue a temporary license to any person who is eligible for examination. Persons issued a temporary license shall be subject to the regulations of the Board.

The Board shall promulgate regulations consistent with this section to permit individuals to be granted temporary licenses for a specified period of time.

§ 54.1-704.1. License required for barbershop, cosmetology salon and nail care salon.

No individual or entity shall operate a barbershop, cosmetology salon or nail care salon without a valid license issued by the Board.

The provisions of this section shall not apply to a licensed barber, cosmetologist or nail technician who does not have an ownership interest in a licensed barbershop, cosmetology salon or nail care salon in which he is employed.

§ 54.1-704.2. License required for schools of barbering, cosmetology and nail care.

Except as provided in § 54.1-701, no person, firm or corporation shall operate or attempt to operate a school of barbering, cosmetology or nail care unless licensed by the Board pursuant to its regulations.

§ 54.1-705. Inspections.

Inspectors and sanitarians of the State Department of Health, or an affiliated local health department, may inspect each barbershop, cosmetology salon and nail care salon in the Commonwealth regularly. Any infractions shall be immediately reported to the Health Department and the Director of the Department of Professional and Occupational Regulation for disciplinary action. The Board may inspect barbershops, barber schools, cosmetology salons and schools, and nail care salons and schools for compliance with regulations promulgated by the Board.

§ 54.1-706. Different requirements for licensure.

The Board shall have the discretion to impose different requirements for licensure for the practice of barbering, cosmetology and nail care.

(Section 54.1-700 et seq. of the Code of Virginia is available at the following website address: <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-700>)

The basis of the fee increase is as follows:

The proposed regulatory action is mandated by the following sections of the Code of Virginia. To comply with these statutes, the Board evaluates its current and projected financial position, and determines the type of fees and amounts to be established for each fee that will provide revenue sufficient to cover its expenses.

- Section 54.1-113. (Callahan Act) Regulatory boards to adjust fees – Following the close of any biennium, when the account for any regulatory board within the Department of Professional and Occupational Regulation or the Department of Health Professions maintained under §54.1-308 or §54.1-2505 shows expenses allocated to it for the past biennium to be more than ten percent greater or less than moneys collected on behalf of the board, it shall revise the fees levied by it for certification or licensure and renewal thereof so that the fees are sufficient but not excessive to cover expenses.

- Section 54.1-201.4 describes each regulatory board's power and duty to levy and collect fees for the certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the regulatory board and a proportionate share of the expenses of the Department.

- Section 54.1-304.3 describes the power and duty of the Director to collect and account for all fees prescribed to be paid into each board and account for and deposit the moneys so collected into a special fund from which the expenses of the Board, regulatory boards and the Department shall be paid.

- Section 54.1-308 provides for compensation of the Director, employees, and board members to be paid out of the total funds collected. This section also requires the Director to maintain a separate account for each board showing moneys collected on its behalf and expenses allocated to the board.

These Code sections require the Department to:

- pay expenses of each board and the Department from revenues collected;
- establish fees adequate to provide sufficient revenue to pay expenses;
- account for the revenues collected and expenses charged to each board;
- revise fees as necessary to ensure that revenue is sufficient but not excessive to cover all expenses.

To comply with these requirements, the Department:

- Accounts for the revenue collected for each board distinctly.
- Accounts for direct board expenses for each board, and allocates a proportionate share of agency operating expenses to each board.
- Reviews the actual and projected financial position of each board each biennium to determine whether revenues are adequate, but not excessive, to cover reasonable and authorized expenses for upcoming operating cycles.
- Recommends adjustments to fees to respond to changes and projections in revenue trends and operating expenses. If projected revenue collections are expected to be more than sufficient to cover expenses for upcoming operating cycles, decreases in fees are recommended. If projected revenue collections are expected to be inadequate to cover operating expenses for upcoming operating cycles, increases in fees are recommended.

Fee adjustments are mandatory in accordance with these Code sections. The Board exercises discretion in how the fees are adjusted by determining the amount of the adjustment for each type of fee. The Board makes its determination based on the adequacy of the fees to provide sufficient revenue for upcoming operating cycles.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

The Board proposes to promulgate regulations governing the licensure and practice of barbering and cosmetology as directed by Acts 2000, c. 726, cl. 3.; to promulgate regulations sub-regulating the licensure and practice of waxing and haircutting; to promulgate regulations necessary to provide for and ensure that health and sanitary standards and safety are adequate in shops, salons, schools, and other facilities where barbering and cosmetology are practiced; to provide for a fee increase; and to review several provisions and simplify them thereby ensuring that the Board is meeting its statutory mandate to ensure minimal competence of all licensees without burdensome requirements. (For the proposed text, refer to Attachment 1 of this package.)

These regulations are essential to comply with state mandates and to increase the efficient and economical performance of an important governmental function by adopting the least burdensome alternatives allowed by state law.

In its effort to fulfill its responsibility to regulate barbers and cosmetology and associated occupations, the Board will conduct a rigorous study of the training required to be licensed as a wax technician, haircutter or nail technician.

The Board will research the number of hours of training, curriculum and number of performances required by other states for individuals seeking a license as a wax technician, haircutter or nail technician. The Board will consult with the Virginia Department of Education and the Department of Labor and Industry regarding the current nail technician program as well as future programs for wax technicians and haircutters. This will ensure a coordinated effort between these agencies in the Board's effort to establish a minimal training requirement for these occupations.

This will serve to protect the health, safety and welfare of the citizens of the Commonwealth.

The substance of a fee increase is as follows:

Proposed Regulatory Changes

The proposed regulatory change will increase licensing fees for regulants of the Board for Barbers and Cosmetology. The accumulated cash balance and projected revenue to be collected from licensing fees will be inadequate to cover the Board's costs by early fiscal year 2003. Fee increases will allow the board to collect adequate revenue to avoid incurring a deficit and support its ongoing expenses for upcoming operating cycles.

Reasons for the Proposed Changes

In accordance with statute, the Board collects licensing fees from which its operating costs and a proportionate share of the Department's expenses are paid. The Board has no other sources of revenue from which to fund its operations. Fee increases are necessary so that the Board can continue to perform its essential functions of licensing, investigation of complaints, and adjudication of disciplinary cases.

Background:

Until recently, barbers were regulated by the Board for Barbers, and cosmetologists and nail technicians were regulated by the Board for Cosmetology. The boards were combined at the beginning of fiscal year 2001. The last fee increase for the Board for Barbers was in 1995, at which point fees were raised by an average of about \$51. The last fee increase for the Board for Cosmetology was in July 1995, when fees were raised an average of about \$18. Shortly afterward, the Department was able to realize reductions in expenditures through participation in the Workforce Transition Act and other efficiencies. As a result, actual expenditures charged to the Barbers and Cosmetology Boards were less than anticipated.

At the close of FY96, the Board for Barbers had an accumulated cash balance of approximately \$139,909. The Board's cash balance increased until it reached \$223,406 at the end of fiscal year 1999. Revenues collected substantially exceeded expenditures charged to the Board. To avoid continually increasing its cash balance and Callahan Act percentage, the Board took action to reduce its fees in fiscal year 1997 by an average of about \$30, and in fiscal year 1999 again made a smaller reduction in fees, averaging about \$6. Projected revenues at that point were expected to remain slightly below expenditures, allowing the board to use its accumulated cash balance and reduce its Callahan Act percentage over the next 4-5 operating cycles.

The Board for Cosmetology had accumulated a cash balance of \$866,561 at the close of fiscal year 1996. That balance increased to \$1,188,660 by the close of fiscal year 1997. To avoid continuing to increase its cash balance and Callahan Act percentage, the board reduced its fees during 1997 by an average of about \$23. At the close of the 1996-98 biennium, projections indicated that the board would need to increase fees in approximately four-six years. The board made one further adjustment in fees during fiscal year 2000 to bring its reinstatement fees more

in line with the Department's overall practice, but that adjustment had no material impact on revenues or the board's financial position. At the close of the 1998-00 biennium, the board's cash balance had decreased to \$569,169, and it had a Callahan Act percentage of 25.2%. Expenditures for the biennium were substantially more than revenues, and the board was drawing on its cash balances to cover its operating expenses. This situation was projected to continue into the current biennium.

When the boards were combined, their cash balances and financial histories were combined for purposes of projecting the new board's financial position and analyzing its fees.

During the 1998-2000, the agency's expenditures increased more than expected, due to the following factors:

- In FY2000, the General Assembly authorized an unusually high salary increase of 6.25%. That increase affected expenditures for FY00, and must be carried forward into future years, resulting in expenditure projections higher than originally anticipated. Projections for future years also include anticipated salary-related costs of the Compensation Reform Plan.
- The Department has increased its use of wage employees to manage increasing levels of enforcement activity, which has added to cost increases for this Board.
- Since FY97, the Department has experienced increasing activity levels in the areas of enforcement, investigation, and adjudication:

	FY97	FY98	FY99	FY00	Increase
Cases Closed	1,857	3,341	3,350	3,240	74.5%
Investigations Completed	2,161	3,350	3,404	3,395	57.1%
Cases Adjudicated	262	418	561	815	211.1%

- About 4.5% of total enforcement costs are allocated to the Board for Barbers and Cosmetology. In fiscal year 1997, total enforcement costs charged to the board were \$64,409. For fiscal year 2001, enforcement costs are projected to be approximately \$106,000, representing an increase of over \$40,000 or 13% annually.

The Board for Barbers and Cosmetology's combined direct and administrative support costs for the 1998-2000 biennium were more than \$2.5 million, with revenue collections of \$1.98 million. Projections indicate that revenue collections in the 2000-02 biennium will increase only slightly to about \$2,006,000, with expenditures increasing to about \$2.8 million. By the close of the current biennium, the Board is expected to have a cash balance of about \$4,000, and without fee increases is expected to incur a deficit early in fiscal year 2003.

Comparative Factors

Between 1996 and 2000, the Consumer Price Index increased a total of 13.9%. However, licensing fees charged by the Board for Barbers and Cosmetology have decreased an average of 36% for barbers, and 23% for cosmetologists.

The following table is used to compare the cost of licensing in Virginia with other nearby states. Comparisons are shown for the cost to a barber and a cosmetologist to become licensed and to renew a license.

License	VA	NC	SC	WV	MD	FL	GA
Barber:							
Application	60	70	100	5	50	25	50
Renewal	25	30	45	25	50	105	35
Cosmetologist:							
Application	0	28	45	5	25	80	45
Renewal	25	39	30	25	25	60	35

This comparison demonstrates that current fees could be raised to appropriate levels and still remain reasonable, and in some cases lower in cost, in comparison to amounts charged by other nearby states.

Potential Impact and Consequences

Increases in fees are not expected to have a significant effect on individuals deciding to become licensed by the Board, or to affect the total volume of barber, cosmetologist, and nail technician practitioners, salons, schools, and instructors. No economic impact is anticipated beyond the direct impact of the increased cost to become and remain licensed. Licensing fees apply to the two-year period for which the license is valid, and overall, will remain a very small portion of the costs to work as a barber or cosmetologist.

If these fee increases are not implemented:

- The Board will have inadequate revenues to support its ongoing operations.
- Because this Board represents a large portion of agency activities and revenue, the Department will have inadequate cash flow to pay for essential operations.
- Revenue collections will be inadequate to fund the Department's authorized appropriation.

Issues to be Addressed as Regulation is Developed

The Callahan Act requires DPOR to review each board's expenditures at the close of each biennium, and to adjust fees if necessary. The Board for Barbers and Cosmetology closed the 1998-00 biennium with a combined Callahan Act percentage of 31.8% and a cash balance of \$801,299. However, by the close of the 2000-02 biennium, the Board is expected to have a cash balance of only \$4,000 and a Callahan Act percentage of .1%. Since its revenues are less than expenditures, the board is expected to incur a deficit early in fiscal year 2003.

Once the Board exhausts its cash balance and begins fully using its current revenues, there will be no additional source of revenue to pay its ongoing operating expenses other than to borrow from the cash balances of other boards. The Board for Barbers and Cosmetology is the Department's second largest board. Borrowing from other boards' cash balances could support its operations for only a limited amount of time, and would only delay the need for fee increases briefly. Any amounts borrowed from other boards would have to be repaid, and would result in even larger increases in proposed fees in order to repay the deficit.

The regulatory review process generally takes a minimum of 18 months, and so it is essential to consider fee increases now, before a deficit is actually incurred. To avoid the upcoming deficit and the need to increase fees to more than needed for ongoing operations, the new fees will need to become effective by the beginning of the 2002-04 biennium. Otherwise, the Board's deficit will increase and the new fees may be inadequate to provide sufficient revenue for upcoming operating cycles, which could result in the Board having to consider additional fee increases in the near future.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

Failure to promulgate new regulations will result in the newly created Board for Barbers and Cosmetology maintaining two sets of Rules and Regulations. One set of regulations for the barber profession and one set of regulations for the cosmetology profession.

Other regulatory provisions would not provide for less burdensome alternatives.

The alternatives considered in lieu of a fee increase is as follows:

The Department has considered the following alternatives to increasing fees for the Board for Barbers and Cosmetology.

- Reduce services: Because the regulatory activities conducted by the Board are mandated by statute, this is not considered a viable alternative. In addition, reductions in services would result in delays in issuing licenses, creating barriers to citizens' ability to work, and would decrease the Department's effectiveness in ensuring that licensees conduct their activities in a manner adequate to protect the public health, safety and welfare.

- Obtain a Treasury loan to fund operations: The Department could request a loan from the general fund to cover the Board's deficit and supplement its ongoing operations. However, this would be a short-term solution only, and would only delay the need for fee increases. When eventually implemented, fee increases would need to be even greater to provide for repayment of the loan.
- Supplement Board activities with general funds: The Department currently receives no general fund revenue, and this would require a change in the Code of Virginia and the Appropriations Act. The Department's boards are intended to be self-funding per Sections 54.1-113, 54.1-201.4, 54.1-304.3, and 54.1-308 of the Code of Virginia. Use of general funds to support board operations does not appear to be an appropriate use of taxpayer dollars.
- Reduce Department expenditures: The Department has already taken action to control its expenditures. During fiscal year 2000, decisions were made to postpone discretionary spending, particularly in the area of information systems and equipment upgrades. In fiscal year 2001, the Department implemented an operating budget below its appropriation level in an attempt to postpone cost increases. Such decisions have helped to delay fee increases, but cannot avoid them altogether. Over the past five years, Department expenditures have increased a total of 20.3%, or an average of 4% annually. This annual increase is quite small given cost increases associated with salary increases, inflationary increases, increases in the volume of enforcement activities, increases in mandated regulatory activities, and increases in the number of licensees over the same period of time. The small increase in expenditures represents the Department's efforts to hold cost increases to the minimum necessary, and thus avoid unnecessary increases in fees.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The contemplated changes are expected to have no impact on families.